

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

FILED

JUL 10 2010

WILLIAM J. WHEAT

By CLAYTON

SONNY LAUREN HARMON,

Plaintiff,

v.

ROBERT EZELL and  
McKALEE WEIDMAN,

Defendants,

No. CIV 10-451-RAW-SPS

**OPINION AND ORDER**

**DENYING LEAVE TO PROCEED IN FORMA PAUPERIS**

Plaintiff Sonny Lauren Harmon, a prisoner appearing pro se and seeking to bring a civil rights action, has filed a motion for leave to proceed *in forma pauperis* and supporting affidavit in conformance with 28 U.S.C. § 1915(a). A review of his litigation history, however, indicates he has accumulated at least three prior civil rights actions that count as “strikes,” pursuant to 28 U.S.C. § 1915(g):

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g).


In *Harmon v. Williams*, No. CIV-09-1051-C (W.D. Okla. July 23, 2010), plaintiff’s action was dismissed with prejudice, pursuant to Fed. R. Civ. P. 12(b)(6) and 28 U.S.C. § 1915(e)(2)(B)(ii). In *Harmon v. Williams*, No. CIV-02-942-C (W.D. Okla. Jan. 15, 2003),

*aff'd*, No. 03-6027 (10th Cir. June 19, 2003), the district court dismissed plaintiff's action for failure to state a claim upon which relief may be granted and specifically found that the dismissal counted as a "prior occasion" under 28 U.S.C. § 1915(g). Finally, plaintiff's § 1983 claims were dismissed as barred by the Eleventh Amendment and the statute of limitations, and for failure to serve certain defendants in *Harmon v. Davis*, No. CIV-99-405-C (W.D. Okla. June 26, 2000), *aff'd*, No. 00-6233 (10th Cir. Jan. 19, 2001).

Plaintiff alleges in the complaint now before the court that he is being denied access to the prison law library at his facility, and prison officials retaliated against him for filing an earlier civil rights lawsuit. After a review of the complaint, the court finds plaintiff has not demonstrated he is in imminent danger of serious physical injury and that he qualifies for the exception in 28 U.S.C. § 1915(g).

**ACCORDINGLY**, plaintiff's motion for leave to proceed *in forma pauperis* [Docket #2] is DENIED. Plaintiff is directed to forward the **\$350.00** filing fee to the Court Clerk within twenty (20) days. The agency having custody of plaintiff is ordered to release funds from plaintiff's accounts, including plaintiff's trust account, for payment of the filing fee. Failure to comply with this order will result in dismissal of this action.

**IT IS SO ORDERED** this 10<sup>th</sup> day of December 2010.

  
**RONALD A. WHITE**  
**UNITED STATES DISTRICT JUDGE**